

Item #: 9

Moved by: BUNKER

Prepared by: Malcolm Futhey

Seconded by: MULROY

Approved by: Christy L. Kinard
Assistant County Attorney

RESOLUTION ADOPTING POLICIES AND PROCEDURES FOR ASSESSING A CONTRACTOR'S EQUAL OPPORTUNITY COMPLIANCE, DESIGNATING THE EOC OFFICE FOR ENFORCEMENT OF SAME, AND REPEALING THE RESOLUTIONS ADOPTED AS ITEMS NO. 17 ON OCTOBER 20, 1986, AND NO. 12 ON MAY 9, 1983. SPONSORED BY CHAIRMAN MIKE RITZ.

WHEREAS, The Shelby County Board of Commissioners has taken action through various Resolutions to assure that Shelby County Government is an "Equal Opportunity Employer"; and

WHEREAS, The Fourteenth Amendment of the United States Constitution, as well as Title VI and Title VII of the Civil Rights Act of 1964, 42 U.S.C., Section 2000c, et seq., require the County to institute and oversee equal opportunity practices in certain circumstances; and

WHEREAS, Article I, Section 8 of the Tennessee Constitution requires that no man shall be deprived of his life, liberty, or property but by the law of the land; and

WHEREAS, Pursuant to the mandates of the Shelby County Charter, Article V, Section 5.13, and the Resolution adopted by the Shelby County Board of Commissioners as Item No. 17 on September 20, 1986, the Administrator of the Equal Opportunity Compliance Office reviews all proposed contracts in which County funds are expended to insure that nondiscriminatory employment practices are being executed on all levels of employment as specified by the Equal Employment Opportunity Commission and Labor Department rules, regulations, and guidelines; and

WHEREAS, It is the desire of the Board of Commissioners to comply with the equal opportunity laws identified above and to ensure that businesses contracting with Shelby County Government are equal opportunity employers.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the following EOC Policies be and are hereby adopted:

I. Non-Discrimination Policy

Shelby County shall only use contractors that have shown they do not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or disability. All contractors with 15 or more employees shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include, but not be limited to the following: recruitment, recruitment advertising, employment, selection for training, including apprenticeships, rates of pay or other forms of compensation, promotion, demotion, transfer, layoff, and termination.

II. Additional Requirements and Prohibitions

All contractors shall comply with the following requirements at all times:

1. Statement of Policy. All contractors shall comply with the duties and obligations set forth in the Statement of Policy on Equal Employment and Affirmative Action, which is attached hereto as Exhibit "A" and incorporated herein by reference.

2. Executive Order 11246. All contractors covered by Executive Order 11246 shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or established pursuant thereto, and shall grant the EOC Office access to such contractor's books, records, and accounts for purposes of allowing the County to ascertain compliance with such rules, regulations, and orders.

3. Notice to Employees. All contractors shall post, in conspicuous places available to employees and applicants for employment, a notice that sets forth the non-discrimination policy established by Part I of these Policies.

4. Subcontracts and Purchase Orders. All contractors shall include a non-discrimination clause in every subcontract or purchase order related to such contractor's contract with Shelby County Government that sets forth the non-discrimination policy established by Part I of these Policies, which shall be binding upon each subcontractor or vendor.

5. EOC Number Required. Every contractor that receives more than \$5,000.00 annually from Shelby County must apply for and obtain an EOC Number from the EOC Office.

6. Title VI and Title VII Compliance. Every contractor must comply with all applicable requirements of Title VI and Title VII of the Civil Rights Act of 1964.

7. Good Faith and Non-Frustration. Every contractor must attempt in good faith to comply with the provisions set forth in these policies and shall not intentionally or knowingly frustrate or undermine the principles or goals underlying these policies.

8. Truthful and Accurate Information. A contractor shall not provide materially false, incorrect, or misleading information or documents to the EOC Office.

III. Violations and Penalties

A. A contractor shall have 30 calendar days from receipt of written notification from the EOC Office to cure any violation of these Policies or attached Procedures.

B. If a contractor violates these Policies or attached Procedures, or fails to cure any such violation, the contractor may lose its EOC Number, lose its contract or bid award with Shelby County Government, or be subject to other sanctions or remedies as authorized by law.

C. If a contractor violates these Policies or attached Procedures, or fails to cure any such violation, Shelby County Government may disqualify a contractor from doing business with the County, cancel or suspend a contractor's contract with the County, in whole or in part, or impose another appropriate remedy or sanction.

D. If a contractor violates these Policies or attached Procedures, or fails to cure any such violation, Shelby County Government has the right not to pay the contractor to the extent allowed by law.

IV. Savings Clause

If a final, non-appealed judgment holds that any provision of these Policies is unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of these Policies and shall be confined in its operations to the specific provisions held invalid.

BE IT FURTHER RESOLVED, That the EOC Procedures, which are attached hereto as Exhibit "B" and incorporated herein by reference, be and are hereby adopted.

BE IT FURTHER RESOLVED, That the Shelby County Office of Equal Opportunity Compliance be and is hereby designated, in accordance with Section 5.13 of the Shelby County Charter, as the office to administer and enforce the EOC Policies and Procedures adopted herein, which shall be incorporated into the Vendor Eligibility and Compliance Unit portion of the Manual for the EOC Office for purposes of determining whether a contractor is an equal opportunity employer and therefore eligible to bid and/or submit proposals on solicitations to do business with Shelby County Government.

BE IT FURTHER RESOLVED, That the Resolutions adopted as Items No. 17 on October 20, 1986, and No. 12 on May 9, 1983, are hereby repealed.

BE IT FURTHER RESOLVED, That this Resolution shall become effective in accordance with the Shelby County Charter, Article II, Section 2.06(B).



Mark H. Luttrell, Jr.
County Mayor

Date: 11-14-12

ATTEST:

Clerk of County Commission

ADOPTED: November 5, 2012